

CHAPTER 1

GENERAL PROVISIONS

A. PURPOSE. This regulation delineates specified policies and procedures relating to the establishment, operation, and control of those MWR activities and NAFIs on DoD installations dedicated to the support of DoD civilian employees and others as authorized in DoD Directive 1015.1 (reference (a)), DoD Instruction 1015.2 (reference (b)), DoD Directive 1015.8 (reference (c)), and section E, chapter 2 of this regulation. The need for establishing and funding such programs may be recognized at any time but shall be formally considered at least triennially during the patron interest survey of civilian employees, as required by reference (b). Because of varying civilian employee populations at DoD installations and a dependence on an adequate flow of NAP income, civilian MWR activities and NAFIs shall be operated on a selective, rather than a universal, basis. The voluntary characteristics of establishing and continuing these programs, however, is not meant to detract from their important role nor the necessity for a reasonable degree of uniformity and standardization in their administration. The regulatory references cited herein apply to MWR and NAFI operations throughout the DoD. This regulation applies these references, expands on the basic information contained therein, and presents additional guidance unique to civilian MWR activities and their supporting NAFIs.

B. ESTABLISHMENT AND DISESTABLISHMENT1. Establishment

a. A civilian NAFI shall be established only upon the written authority of the Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)), the Secretary of a Military Department, or a designee at the Military Department level. The criteria for establishing a DoD NAFI, as contained in reference (a), shall be applied. Likewise, identification through the authorized Category II or IV NAFI/MWR classification system shall be used. The financial integrity of each category shall be maintained and the functions of each separate category shall not be combined nor consolidated into a single NAFI.

b. As a minimum, a request to establish a civilian NAFI shall include:

(1) Purpose of and requirement for the NAFI to service DoD civilian employees based on availability of existing military MWR programs and adequacy of off-base recreation programs.

(2) Types of MWR activities to be conducted (see section C, Chapter 2).

(3) Number of Federal employees to be served.

(4) Appropriated fund (APF) resources to be made available within the authorizations of DoD Directive 1015.6 (reference (d)) and chapter 3 of this regulation.

(5) First and second year budgets for the NAFI that reflect a self-supporting capability and financial viability.

(6) Designation of the Successor NAFI in accordance with DoD Instruction 1015.1 (reference (a)).

2. Disestablishment. Civilian NAFIs shall be disestablished in writing by the authority cited in subsection B.1. above. Reasons may include the following: criteria for a DoD NAFI can no longer be met; financial viability can no longer be sustained; and by direction of the appropriate authority. Residual assets from disestablishment shall be transferred or otherwise disposed of within the departmental civilian NAFI system in accordance with instructions issued by the Central Successor Civilian NAFI.

3. Relationship to Other DoD MWR Categories. Although civilian employees may be authorized by some regulations to participate in selected military MWR activities, usually on a space-available basis, only the MWR/NAFI programs governed by this Regulation are dedicated to the support of DoD civilian employees. Establishing Categories II and IV civilian employee programs therefore can be achieved more readily at those installations, or in areas, buildings, or other DoD locations, where there are a large number or a predominant percentage of DoD civilian employees in the total population. The ratio between civilian employee and military populations at or within DoD locations also affects the capability of other existing activities to accommodate civilian work force patronage at that location. The authorization for APF support to the various categories of MWR activities differs by military and civilian patronage. These considerations and other program planning factors cited in reference (b) and DoDD 1015.6 (reference (d)) shall be the basis for evaluating the patron services provided by other on-base activities in terms of the justification and need for separate civilian employee programs and resources.

4. Civilian MWR/NAFIs in Defense Agencies. DoD Directive 1015.1 (reference (a)) provides that Defense Agencies shall establish, manage, and control all MWR/NAFIs in accordance with the regulations of a Military Department. It also requires that requests to establish new or continue existing NAFIs shall be submitted per subsection B.1., above, to the Secretary of the Military Department, or departmental-level designee, as an approving authority. Established civilian NAFIs shall be administered and controlled in accordance with the regulations of the approving Military Department. Alternatively, if a joint departmental-level civilian employee NAFI has been approved by the Secretaries to act for their respective Military Departments, the above authority shall be exercised for each Department by the joint NAFI's Board of Directors.

C. OPERATING PRINCIPLES.

1. Employees to Benefit. DoD Instruction 1330.18 (reference (e)) exempts from its provisions the sale of prepared food and beverages by Category II civilian employee food services. DoD Directive 1015.1 (reference (a)) authorizes Category II NAFIs to provide goods and services through resale activities to authorized patrons and to share revenue with designated morale programs. Since the primary resale patrons are civilian employees, the primary beneficiaries of Category IV MWR programs are civilian employees. As authorized in Chapter 2, section E, other incidental beneficiaries of civilian employee

programs may be military personnel, installation visitors, invited guests, DoD civilian and/or military dependents, certain former spouses, and retired DoD employees.

2. No Proprietary Interests. Individuals, organizations, installations, and commands have no proprietary interest in Category II and IV NAFI assets. Benefits are to be derived through the employee's participation in these programs.

3. Redistribution of Assets. The assets of each civilian NAFI are under its administrative custody and control. Heads of DoD Components, or designees for civilian employee MWR programs, may redistribute assets between civilian NAFIs based on relative funding priorities and needs. Redistribution of these assets upon transfer of an installation's jurisdiction shall be in accordance with Chapter 3, subsection D.5. Joint funding of programs or construction projects shared on a cost and use basis with other NAFIs is not a redistribution of assets and may be authorized by DoD Components.

4. Interservice Support. Civilian employee MWR activities and NAFI support shall be made available to all Federal employees working on or logistically supported by the host DoD installation.

D. METHODS OF OPERATION. Authorized resale operations, particularly Category II food, nonalcoholic beverage, and packaged snack services, may be conducted on a direct 'tin-house" basis, on an indirect or contract basis, or a combination of the two. All resale operations are subject to the applicable provisions of the blind vending program DoD Directive 1125.3 (reference (f)). Any authorized resale of alcoholic (including malt) beverages may be by the direct operation method only.

1. Direct Operations. The civilian NAFI is the basic management and operating entity, as well as the financial vehicle through which all operations are conducted. Other than authorized APF support, the NAFI provides all other resources, employs the necessary personnel, and engages in financial transactions in its own name as an instrumentality of the United States. Direct operations enjoy the immunities and privileges of Federal instrumentality status.

2. Indirect Operations. Civilian NAFI contractual agreements may authorize an individual or company, usually termed the concessionaire, to engage in a specified MWR activity for a profit that is shared with the NAFI, e.g., cafeteria or vending machine services. The terms of the contract determine how the internal operations of the activity shall be conducted, the roles and responsibilities of both parties, resources to be furnished by each, the standards of contract performance to be met, as well as many other optional and required terms. Indirect operations conducted by contract do not entitle the contractor to the immunities and privileges of a Federal instrumentality.

3. Combination Operations. A NAFI may operate one or more activities on a direct basis and contract out others, thus combining the two methods. Such matters as legal status, taxes, Government-furnished resources, and others must therefore be determined by the method of operating an individual MWR activity or resale outlet, rather than the status of the overall supporting NAFI.

E. LEGAL STATUS

1. Category II and IV MWR activities and their supporting NAFIs are integral parts of their establishing Military Departments and the NAFIs are instrumentalities of the United States. As such, they are entitled to the immunities and privileges enjoyed by the Federal Government under the Constitution, Federal statutes, established principles of law, and international treaties and agreements.

2. Although nonappropriated funds are not created through the Appropriation Acts of the Congress, certain Federal laws specifically include NAFIs within their provisions. The DoD issuances referenced herein cite these laws, when applicable, and shall be consulted as to pertinent subject matter.

3. DoD issuances and Component regulations have the force and effect of law. Policies and procedures contained therein shall be uniformly applied and strictly interpreted in order to ensure a reasonable degree' of standardization throughout the DoD civilian employee NAFI system.

F. TAXES

1. Civilian NAFIs shall collect and pay all applicable Federal taxes. As instrumentalities of the United States, civilian NAFIs are entitled to the same immunity from the taxes of the States, the District of Columbia, and political subdivisions thereof, as is the United States.

2. In accordance with DoD Instruction 1015.2 (reference (b)), the sale of state tax-free tobacco products and soft and ☐alt beverages by civilian NAFIs is restricted to amounts (items, packs, bottles, and cans) to be consumed on the premises of the installation (also see definitions), except that all tobacco products sold through vending machines shall be fully tax-paid, including state and local taxes. Although individual item sales are authorized herein for on premise consumption, bulk sales of beverages and sales of tobacco products by the carton or box by civilian NAFIs (including concessionaire operations) are prohibited.

3. NAFI concessionaire contractors are not instrumentalities of the United States and therefore shall collect, report, and pay all applicable Federal, State, and local taxes.

G. MANAGEMENT SUPPORT

1. Command Support

a. Command recognition of work force morale needs is essential to accomplishing its mission. The establishment and continuance of civilian employee MWR activities can be a positive force in morale, work productivity, and command effectiveness.

b. DoD Directive 1015.6 (reference (d)) and DoD Instruction 1015.4 (reference (g)) define and authorize Executive Control and Essential Command Supervision (ECECS) for both Categories II and IV MWR activities. Although commanders cannot assign manpower positions on manning documents, they may assist these MWR activities by authorizing employee performance on an incidental or collateral duty basis of overall managerial functions and the monitoring

of operations through management indicators, such as those listed in section H., below. MWR ECECS and volunteer support to activity operations may be recognized officially in employee performance ratings. The direct operation of individual MWR programs and activities may be done only by NAFI employees hired for such purposes, volunteers from the Federal employee work force during nonduty hours, or volunteer family members of employees.

c. Examples of authorized command support are as follows:

(1) Conducting a survey at least triennially of civilian employee services, MWR needs, and MWR interests in accordance with DoD Instruction 1015.2 (reference (b)).

(2) Initiating a request to establish civilian employee services and MWR activities with a supporting NAFI(s).

(3) Supervising and/or assigning overall supervisory responsibility for civilian MWR activities to an appropriate office.

(4) Providing facilities, other logistical, and staff support to the extent authorized by DoD Instruction 1330.18 (reference (e)) and available within resources.

(5) Ensuring sound financial operation of civilian NAFIs.

2. Staff Support. ECECS support referenced in paragraph G.1.b. above includes the functional areas of staff elements in support of the command mission. Such staff functions are performed for civilian MWR activities as official DoD entities. Further guidance on the use of official time is in subsection G.6., below.

3. Representational Bodies

a. Civilian employees, elected or appointed to a representational body or council, shall provide overall direction or broad recommendations in the management of the civilian MWR program, its activities, and its supporting NAFI. Governing bodies or councils direct and exercise general supervision on behalf of the MWR program beneficiaries or patrons. Nongoverning bodies or councils also represent the patrons by reviewing, recommending, and advising. Actions of these bodies are subject to the final decision of the responsible commander or DoD official.

b. Reference (b) authorizes civilian Category IV programs to meet MWR needs of military personnel when there are no installation Category III MWR programs available. At such locations, the extent of the program must necessarily be within the financial constraints and capabilities of the NAFI. Councils shall include military representation.

c. The above administrative options available to DoD Components provide program flexibility, yet ensure that patron needs and interests are officially recognized and presented for management consideration. This system of checks and balances between patron and management considerations also adds integrity to the use and control of NAFI assets.

4. MWR Program Supervision Support

a. DoD Instruction 1015.4 (reference (g)) prohibits use of APF positions on reaming documents for civilian MWR supervision or for operational functions. This DoD policy does not preclude providing the ECECS support delineated herein. Full-time civilian MWR program supervision, where required, must be provided with NAF resources.

b. MWR supervisor support through NAFI employees shall be dependent upon the scope and financial complexity of the MWR/NAFI program requirements. Supervision of direct food service operations or continuing Category IV recreational activities will normally require regular NAFI employees. Contracted food and vending services or small-scale recreation programs may or may not entail NAFI employees for support.

5. Employee Volunteer Support

a. Essential to the conduct of many Category IV MWR programs is the management and operating support of employee and dependent volunteers. Most program costs must be borne by the Category IV NAFI, which in turn is largely dependent on Category II NAFI dividends.

b. Support from volunteers is the principal alternative to spending NAF income for management and operational personnel. However, more effective use of volunteers may result from a Category IV professional program manager paid from NAF, when viable financially.

6. Use of Official Time by Civilian Employees

a. The use of official duty time by civilian employees for management support to civilian MWR activities and NAFIs is authorized on a selective and occasional basis. Examples of duties are listed in paragraph G.6.b., below, and fall within the definition of ECECS, when performed as incidental collateral duties. DoD Instruction 1330.20 (reference (h)) excludes from the annual MWR Personnel Strength Report any APF employee spending less than 25 percent of his/her total hours working on part-time or collateral duties with MWR activities and NAFIs.

b. Examples of ECECS in civilian MWR activities are as follows:

- (1) Governing or nongoverning NAFI council membership.
- (2) Custodian of a Category II or IV NAFI.
- (3) Category II or IV overall program manager.
- (4) Staff or technical support, including specialized advisory assistance of councils and monitoring of management indicators.

c. Direct operation of individual MWR activities is not ECECS and may not be performed by appropriated funded employees during duty hours.

H. MANAGEMENT INDICATORS

1. Purpose. Management indicators highlight selected information in order to assess the need for and performance of DoD Component civilian MWR activities and NAFIs. Certain indicators relate to the employee triennial surveys required by DoD Instruction 1015.2 (reference (b)). Some indicators should be monitored as a function of ECECS more frequently than others. Most indicators are required by DoD Instruction 7000.12 (reference (i)) analyses and are more meaningful when compared with prior fiscal periods. Examples that follow are not all-inclusive. Others may be developed for local management purposes, since information needs differ by organizational level of responsibility.

2. Category II Civilian MWR Indicators

a. At the DoD Component or Joint Service level, the following indicators apply:

(1) Comparison in numbers and percentages of installations with Category II MWR/NAFI to total number of installations.

(2) Comparison in numbers between Federal employee population at installations served by a Category II NAFI to those installations not served by this category.

(3) Number of installations with no Category II civilian NAFI when the Federal employee population is 500 or more and is 25 percent or more of the total installation population.

(4) Percentages of APF and NAF expenditures to total annual expenditures.

(5) Overall Current Ratio and Acid Test Ratio.

(6) Inventory Turnover Rate.

(7) Percentage of Net Income to Gross Sales.

(8) Percentage of Operating Expenses to Net Operating Income.

(9) Percentage of Salary/Wage Expenses to Total Operating Costs and to Gross Sales.

(10) Percentage of total annual Capital Expenditures to Fixed Assets.

(11) Percentage of Net Worth to Total Assets.

(12) Percentage of Net Income distributed to Category IV NAFI.

(13) Percentage of Concessionaire Sales to Gross Direct Sales, if applicable.

(14) Total Gross Sales by concessionaires and Commission Fees received therefrom.

b. Installation level management indicators for an individual Category II civilian NAFI are in subparagraphs H.2.a., (4) through (14), above.

3. Category IV Civilian Employee General Welfare and Recreation

a. At the DoD Component or Joint Service level, the following indicators apply:

(1) Percentage of APFs and NAFs, respectively, of annual operating costs .

(2) Percentage of Category II dividend distribution income to Total Category IV Income.

(3) Percentage of all other income (nondividend) to total income.

(4) Percentage of Gross Sales to all other income, operating and nonoperating.

(5) Overall Current Ratio and Acid Test Ratio.

(6) Percentage of Salary/Wage Expenses to Total Operating Expenses.

(7) Percentage of Capital Expenditures to Fixed Assets.

(8) Percentage of Fund Equity to Total Assets.

(9) Program participation in total numbers (e.g., numbers of participants by activity; ratio of participants in program to total employee population).

b. Installation level management indicators in paragraph H.3.a., above, also apply to an individual Category IV civilian NAFI, except that program participation is to be computed for each activity. Examples are in chapter 2.